

HOUSE BILL No. 1796

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-1-3-18.5; IC 7.1-3; IC 7.1-5-7; IC 35-46-1-10.1.

Synopsis: Alcoholic beverages. Defines "grocery store". Requires the alcohol and tobacco commission to conduct random unannounced inspections of locations where alcoholic beverages are sold or distributed. Allows a person at least 18 years of age and less than 21 years of age to receive or purchase alcoholic beverages as part of an enforcement action. Allows the commission to grant one: (1) beer dealer's permit in an incorporated city, town, or unincorporated town for each 2,000 persons; and (2) liquor dealer's permit in an incorporated city, town, or unincorporated town for each 1,500 persons. (Current law allows the commission to grant one beer dealer's permit and one liquor dealer's permit for each 1,500 persons.) Allows the commission to renew or transfer a beer dealer's or liquor dealer's permit for a beer dealer or liquor dealer who held a permit before July 1, 2007, and does not qualify for a permit as a result of the quota requirement. Establishes penalties for an alcohol permit holder, the holder's agent, or the holder's employee that furnishes alcohol to a minor. Makes it a Class B misdemeanor for a person to recklessly sell, barter, exchange, provide, or furnish an alcoholic beverage to a minor. (Under current law, the offense is a Class C misdemeanor.) Repeals the limitation on commodity requirements for package liquor stores.

Effective: July 1, 2007.

Austin, Kuzman, Bell

January 26, 2007, read first time and referred to Committee on Public Policy.

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First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1796

A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 7.1-1-3-18.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2007]: **Sec. 18.5. "Grocery store" means a**
4 **store or a part of a store that:**

5 **(1) has the primary North American Industry Classification**
6 **System (NAICS) classification 445110, 452910, 445120, or**
7 **447110; or**

8 **(2) offers for sale all of the following:**

9 **(A) Fine wines.**

10 **(B) Specialty beers.**

11 **(C) Gourmet cooking and wine accessories.**

12 **(D) Meats.**

13 **(E) Cheeses.**

14 **(F) Packaged specialty foods.**

15 SECTION 2. IC 7.1-3-3-5, AS AMENDED BY P.L.224-2005,
16 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2007]: Sec. 5. (a) The holder of a beer wholesaler's permit



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may purchase and import from the primary source of supply, possess, and sell at wholesale, beer and flavored malt beverages manufactured within or without this state.

(b) A beer wholesaler permittee may possess, transport, sell, and deliver beer to:

(1) another beer wholesaler authorized by the brewer to sell the brand purchased;

(2) a consumer; or

(3) a holder of a beer retailer's permit, beer dealer's permit, temporary beer permit, dining car permit, boat permit, airplane permit, or supplemental caterer's permit;

located within this state. The sale, transportation, and delivery of beer shall be made only from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery.

(c) Delivery of beer to a consumer shall be made in barrels only with the exception of the beer wholesaler's bona fide regular employees, who may purchase beer from the wholesaler in bottles, cans, or any other type of permissible containers in an amount not to exceed forty-eight (48) pints at any one (1) time.

(d) The importation, transportation, possession, sale, and delivery of beer shall be subject to the rules of the commission and subject to the same restrictions provided in this title for a person holding a brewer's permit.

~~(e) The holder of a beer wholesaler's permit may purchase, import, possess, transport, sell, and deliver any commodity listed in IC 7.1-3-10-5, unless prohibited by this title. However, A beer wholesaler may deliver flavored malt beverages only to the holder of one (1) of the following permits:~~

~~(1) A beer wholesaler or wine wholesaler permit, if the wholesaler is authorized by the primary source of supply to sell the brand of flavored malt beverage purchased.~~

~~(2) A wine retailer's permit, wine dealer's permit, temporary wine permit, dining car wine permit, boat permit, airplane permit, or supplemental caterer's permit.~~

(f) A beer wholesaler may:

(1) store beer for an out-of-state brewer described in IC 7.1-3-2-9 and deliver the stored beer to another beer wholesaler that the out-of-state brewer authorizes to sell the beer;

(2) perform all necessary accounting and auditing functions associated with the services described in subdivision (1); and

(3) receive a fee from an out-of-state brewer for the services described in subdivisions (1) through (2).

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SECTION 3. IC 7.1-3-22-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. ~~Dealers' Permits Limited.~~ (a) The commission may grant ~~only~~ one (1):

(1) beer dealer's permit **in an incorporated city, town, or unincorporated town for each two thousand (2,000) persons, or fraction thereof, within the incorporated city, town, or unincorporated town;** and ~~one (1)~~

(2) liquor dealer's permit in an incorporated city, town, or unincorporated town for each one thousand five hundred (1,500) persons, or fraction thereof, within the incorporated city, town, or unincorporated town.

(b) **Notwithstanding subsection (a), the commission may renew or transfer a beer dealer's or liquor dealer's permit for a beer dealer or liquor dealer who:**

(1) **held a permit before July 1, 2007; and**

(2) **does not qualify for a permit under the quota restrictions in subsection (a).**

SECTION 4. IC 7.1-5-7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) It is a ~~Class C~~ **Class B** misdemeanor for a person to recklessly sell, barter, exchange, provide, or furnish an alcoholic beverage to a minor.

(b) This section shall not be construed to impose civil liability upon any educational institution of higher learning, including but not limited to public and private universities and colleges, business schools, vocational schools, and schools for continuing education, or its agents for injury to any person or property sustained in consequence of a violation of this section unless such institution or its agent sells, barter, exchanges, provides, or furnishes an alcoholic beverage to a minor.

SECTION 5. IC 7.1-5-7-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. (a) **The commission shall conduct random unannounced inspections at locations where alcoholic beverages are sold or distributed to ensure compliance with this title.**

(b) **Only the commission, an Indiana law enforcement agency, the office of the sheriff of a county, or an organized police department of a municipal corporation may conduct the random unannounced inspections.**

(c) **The entities listed in subsection (b) may use retired or off duty law enforcement officers to conduct inspections under this section.**

SECTION 6. IC 7.1-5-7-17 IS ADDED TO THE INDIANA CODE

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AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. (a) Notwithstanding any other law, an enforcement officer vested with full police powers and duties may engage a person who is:

- (1) at least eighteen (18) years of age; and
- (2) less than twenty-one (21) years of age;

to receive or purchase alcoholic beverages as part of an enforcement action under this article.

(b) The initial or contemporaneous receipt or purchase of an alcoholic beverage under this section by a person described in subsection (a) must:

- (1) occur under the direction of an enforcement officer vested with full police powers and duties; and
- (2) be a part of the enforcement action.

SECTION 7. IC 35-46-1-10.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10.1. (a) The definitions in IC 7.1-1-3 apply throughout this section.

(b) If a permittee, an agent of the permittee, or an employee of a permittee violates IC 7.1-5-7-8 on the licensed premises, in addition to any other penalty, a civil penalty may be imposed as follows:

- (1) If the licensed premises at that specific business location has not been issued a citation or summons for a violation of this section in the previous ninety (90) days, a civil penalty of fifty dollars (\$50).
- (2) If the licensed premises at that specific business location has had one (1) citation or summons issued for a violation of this section in the previous ninety (90) days, a civil penalty of one hundred dollars (\$100).
- (3) If the licensed premises at that specific business location has had two (2) citations or summonses issued for a violation of this section in the previous ninety (90) days, a civil penalty of two hundred fifty dollars (\$250).
- (4) If the licensed premises at that specific business location has had at least three (3) citations or summonses issued for a violation of this section in the previous ninety (90) days, a civil penalty of five hundred dollars (\$500).

A permittee, an agent of a permittee, or an employee of a permittee may not be issued a citation or summons for a violation of this section more than once every twenty-four (24) hours.

(c) The defenses set forth in IC 7.1-5-7-5.1 are available to a

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1 permittee in an action under this section.

2 (d) Unless a person is less than twenty-one (21) years of age and
 3 buys or receives an alcoholic beverage under the direction of a law
 4 enforcement officer as part of an enforcement action, a permittee
 5 that sells alcoholic beverages is not liable for a violation of this
 6 section unless the person who bought or received the alcoholic
 7 beverage is charged for violating IC 7.1-5-7-7.

8 SECTION 8. IC 7.1-3-10-5 IS REPEALED [EFFECTIVE JULY 1,
 9 2007].

10 SECTION 9. [EFFECTIVE JULY 1, 2007] Notwithstanding
 11 IC 7.1-1-3-18.5, as added by this act, the alcohol and tobacco
 12 commission may renew or transfer ownership of a beer dealer's
 13 permit for a beer dealer who:

14 (1) held a permit before July 1, 2007; and

15 (2) does not qualify for a permit as a grocery store under the
 16 definition established by IC 7.1-1-3-18.5, as added by this act.

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